

A. Terms and Conditions Needing Clarification or Modification

Several terms and conditions used throughout the text of the NCTA voluntary standards need to be clearly defined before they can be incorporated into mandatory standards.

1. Business Hours

The term "normal" business hours is used throughout the NCTA standards, but is not defined. The NCTA standards also use the terms "regular" and "extended" business hours. Continental recommends that the term "normal" business hours be deleted from any established standards, and that the Commission clearly define "regular" and "extended" business hours. In Section A(2), we also propose a definition for abnormal operating conditions.

The term "normal" business hours should be deleted because it has proved inadequate in practice. It does not differentiate between "regular" and "extended" business hours and "normal" or "abnormal" operating conditions. If a cable operator chooses to have operators available to customers during the night, these should not be considered "normal" business hours -- even if they are regularly available. A cable operator, in turn, would not be subject to the same standard of performance as they are during "extended" hours (nights, weekends and holidays), when

offices operate with reduced staffing but are nonetheless open, as they are during "regular" business hours when offices are fully staffed. The NCTA standards leave open the possibility that a cable operator could be held to the same standard during both periods.

a. Regular Business Hours

NCTA Definition: Non-existent

Proposed Alternative Definition

Regular Business Hours are those hours during which most similar businesses in the community are open to serve customers or those hours during which most administrative offices in the business district or neighborhood where the cable operator's office is located are open to serve customers.

Explanation

While the hours of 9 a.m. to 5 p.m. Monday through Friday are the business hours generally observed by many communities, these hours and days are by no means sacrosanct or universal. Many communities keep business hours based on community traditions and other local factors. Even within a single community, certain business districts and office buildings may observe operating hours that differ from those in the rest of the community. An office located in a shopping mall, for example, may be required to keep the same operating hours as the other businesses in the mall. Consequently, "regular" business hours may and indeed do

vary community by community, and also business district by business district. The proposed definition reflects this reality.

b. Extended Business Hours

NCTA Standard: Non-existent

Proposed Alternative Definition

Extended Business Hours are those hours the office is open to serve customers outside regular business hours, such as at night and on weekends and holidays.

Explanation

Most Continental system offices offer a range of customer services after regular business hours (such as 24-hour repair service and night and weekend installations). Nonetheless, our offices operate with reduced staffing during those times due to the reduced call volume. The NCTA standards are not intended to require offices to be fully staffed whenever the office is open -- including during nights and on weekends and holidays. Due to overtime and shift differential pay, labor costs at night and during weekends and holidays are frequently higher than during regular business hours. Requiring an operator to meet the same standards that are applicable during regular business hours cannot be cost justified, given that the quantity of calls received after regular business hours is substantially lower.

The lower volume of calls during evening and night time hours reflects customers' recognition that business offices are typically open during the day. The fact that cable viewing may be heavier in the evening should in no way increase the cable operators' obligations, therefore, with respect to evening hours.¹¹ There is no more reason for cable operators to staff according to viewing habits than do television stations and networks.

2. Abnormal Conditions

NCTA Definition: Non-existent

Proposed Alternative Definitions

These standards shall apply except during abnormal conditions, *i. e.*, circumstances beyond the reasonable control of the cable operator where severe weather, natural disasters, civil disturbances, labor unrest and other events or circumstances may justifiably prevent the operator from fulfilling customer service obligations.

These standards shall also not apply during abnormal conditions that may be within the partial control of the cable operator so long as the cable operator has made a reasonable effort to staff for such contingencies.

These standards shall also not apply to enhanced services provided at the discretion of the operator such as toll-free lines and other specialized communications devices and services.

¹¹ See NPRM at ¶ 12.

Explanation

While certain of the NCTA standards provide that they will not apply in situations beyond the reasonable control of the cable operator, an exemption for abnormal conditions should logically apply to all of the standards. Abnormal conditions is defined in our proposed language to cover three categories of circumstances where strict compliance with the customer service standards is unreasonable. First, cable operators cannot reasonably be expected to meet the standards during circumstances beyond the operator's reasonable control, including situations caused by severe weather, natural disasters, civil disturbances, labor unrest and other events or circumstances that prevent the operator from fulfilling its customer service obligations.

Second, strict compliance with the customer service standards should not be required for abnormal conditions that are within the partial control of the operator, where the operator may be unable either to predict accurately the increased level of demand that may ensue, or in particularly short peaks, to hire (and train) employees for just a few hours. These events may therefore generate substantially more phone calls for short "peak" periods than the operator can anticipate or handle. In these circumstances, the cable operator should be required to make reasonable efforts to

staff to meet the increased demand. So long as these efforts are made, however, strict compliance with the standards should not be required.

Third, the standards should not be strictly applied when special services are added to meet the particular needs of some customers. Otherwise, operators could be discouraged from providing these extra services. For example, if a cable operator will be considered in violation of the hold time standard if a Thai-speaking customer has to wait longer than normal in order to speak to a Thai-speaking customer service representative, strict application of the standards could discourage operators from offering this service -- a result that would be directly at odds with the fundamentals of customer service.

B. Comments on Specific NCTA Standards

1. Office Hours and Telephone Availability

NCTA Standard:

Knowledgeable, qualified company representatives will be available to respond to customer telephone inquiries Monday through Friday during normal business hours. Additionally, based on community needs, cable systems will staff telephones for supplemental hours on weekdays and/or weekends.

Proposed Alternative Language

Trained company representatives will be available during regular business hours to respond to customer telephone inquiries, as well as

after hours and on holidays and weekends in response to demonstrated community needs.

Explanation

The requirement that companies provide "knowledgeable, qualified" company representatives is ambiguous unless qualifications for customer service representatives are established and a test is developed to determine the employees' level of knowledge. Because training is more easily documented, Continental recommends that the term "trained" company representatives be substituted for "knowledgeable, qualified" company representatives.

Many systems offer extended telephone answering hours (up to 24 hours per day) when there is a demonstrated need for such services and where the services can be cost justified. Due to increased labor costs associated with overtime pay and shift differentials for night and weekend work schedules, as well as the added costs associated with operating an office during extended hours, a cable operator should not be required to provide extended hours unless the benefits to consumers of extended telephone answering hours exceed the costs to the consumer. Therefore, Continental recommends that the need for supplemental telephone answering hours at nights and on weekends and holidays be based on demonstrated community needs.

2. Time Interval for Answering Telephone Calls

NCTA Standard

Under normal operating conditions, telephone answer time by a customer service representative, including wait time, and the time required to transfer the call, shall not exceed 30 seconds.

Proposed Alternative Language

Answering Time: Under normal conditions, systems that utilize automated answering and distribution equipment should answer calls within 30 seconds after receipt of the call, except for circumstances beyond the reasonable control of the operator.

Hold Time: Systems that have telephone equipment capable of measuring hold times (time in queue) should achieve a measured average hold time of 30 seconds or less.

Explanation

The term "telephone answer time," as defined in the NCTA voluntary standard, consists of three parts: the answer time, the wait time (time on hold), and the transfer time. This term should be redefined to exclude the transfer time, because only the answer and hold times are under the control of the operator.

In practice, the "time required to transfer the call" often depends on the nature of the customer's problem. Including this interval in the telephone answering standard could require customers to explain their problem more

succinctly than the problem permits. Worse, inclusion of the "time to transfer" interval could induce operators to transfer calls quickly, in order to meet the standard, regardless of whether they are able to solve the customer's problem in that short time interval.

In any event, the "time required to transfer the call" is not a negative service parameter that needs to be regulated, because during this interval the customer is being helped. Consequently, any limits to this interval will actually diminish the quality of the customer service. Any standard pertaining to telephone answer time should be limited, therefore, to answer times and hold times.¹²

3. Measuring Telephone Answering Performance

NCTA Standard

Those systems which utilize automated answering and distribution equipment will limit the number of routine rings to four or fewer. Systems not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems.

¹² As discussed previously, supra at pgs. 11-12, the obligation to measure compliance with the answer and hold time parameters will impose an economic burden on cable systems. In order that the burden not be unreasonable, cable systems that do not currently have the equipment to measure the answering and hold time parameters should use their best efforts to demonstrate compliance with the standard, but should not be required to purchase the equipment solely for purposes of measuring compliance to the degree of specificity set forth in the standards.

Proposed Alternative Language

The entire standard should be eliminated.

Explanation

The "four rings or fewer" requirement should be deleted. A more precise standard is to require that the call be answered within 30 seconds after the call is received at the operator's phone system, regardless of the number of rings. That language is covered in the preceding standard and thus we recommend that this provision of the NCTA standards be deleted.

The absolute number of rings is indeterminate. On PBX systems, for example, the consumer has already heard one ring before the local exchange carrier (LEC) switches the call to the cable operator's PBX. Therefore, the first ring the cable operator receives is actually the customer's second ring. Also, most Automatic Call Distributors "absorb" the first ring presented by the LEC, so that the "first" ring received by the operator's customer service representative may be the customer's second or even third ring.

4. Ninety Percent Goal

NCTA Standard

This [telephone answer time] standard shall be met no less than ninety percent of the time measured on an annual basis.

Proposed Standard

This standard should be achieved, on average, for at least 90% of the calls received, as measured on an annual basis during regular business hours. Toll-free lines and other enhanced customer services are exempt from this requirement.

Explanation

The standard should be tied to "90% of the calls received" rather than to "90% of the time". Unless the goal is tied to customer calls, it has little likelihood of improving customer service.

Operators should be required to meet this standard during regular business hours, but not during extended business hours. As discussed previously, the cost to meet this standard during extended business hours can be higher than during regular business hours and in practice probably exceeds the value to customers -- who are likely to be more tolerant of slightly longer waits during non-regular business hours. Moreover, if a cable operator is forced to meet this same standard during extended hours, it may be forced to curtail these hours.

Continental's systems provide a wide range of discretionary customer services that are not required by federal law or regulation, such as toll-free lines and foreign-language speaking customer service representatives. If the 90% standard were strictly applied to these

discretionary customer services, the costs to upgrade those services to meet the standard could not be justified, and many of these enhanced services would have to be discontinued.¹³ This is precisely the kind of perverse incentive the Commission's standards should avoid. Accordingly, the Commission should explicitly exempt enhanced services provided by the operator that are not required by the Act.

5. Busy Signal Standard

NCTA Standard

Under normal operating conditions, the customer will receive a busy signal less than three percent of the total time that the cable office is open for business.

Proposed Alternative Language

Under normal operating conditions, less than five percent of customer calls, measured annually, will result in a busy signal during regular business hours. Enhanced services provided at the discretion of the operator such as toll-free lines and other specialized communications devices and services are exempt from this standard.

Explanation

The NCTA standard on busy signals can be established as part of mandatory standards so long as the standard must only be met "under normal operating

¹³ See supra at 23.

conditions." "Normal" operating conditions exclude those abnormal conditions described above in Section II.A.2.

The "less than three percent" standard, however, is unusually stringent and stands at odds with normal telecommunications practices. Telecommunications consultants normally do not make absolute recommendations such as a "three percent busy rate." Instead, experts weigh the cost of attaining such a service level against the potential value to customers.¹⁴ In some cases, in order to reduce the busy rate linearly, costs can rise exponentially. Our research uncovered no other industries achieving a standard similar to the NCTA standard in practice except perhaps Federal Express. That example is inapposite because of the inherently local nature of cable customer service.¹⁵ To alleviate the unduly stringent nature of the three percent requirement, we propose that a mandatory standard should be no less than 5%.

Moreover, it is important that cable operators should be required to meet this standard during "regular"

14 John C. Fuhrman, Telemanagement -- How to Select and Manage Your Business Telephone System 29 (1985).

15 Federal Express achieves such standards cost-effectively because their telephone system can switch a caller to the next available Federal Express agent anywhere in the U.S. Having one or one dozen CSR's available to take calls in St. Louis does not help customers inquire about a channel outage or a syndicated exclusivity blackout in St. Paul if the lines in that community are busy.

operating hours only. For the reasons described previously, any other requirement could induce some operators to restrict their operating hours rather than reduce their actual busy rate, which was the intent of the Act.

6. Customer Service Center and Bill Payment Locations and Hours of Operation

NCTA Standard

Customer service center and bill payment locations will be open for transactions Monday through Friday during normal business hours. Additionally, based on community needs, cable systems will schedule supplemental hours on weekdays and/or weekends during which these centers will be open.

Proposed Alternative Language

Customer service center and bill payment locations under the direct control of the operator will under normal conditions be open for transactions during regular business hours. Additionally, based on demonstrated community needs, cable systems will schedule supplemental hours on weekdays and/or weekends during which customer service centers and bill payment locations will be open if it is cost effective and prudent to do so.

Explanation

The NCTA voluntary standards do not take into account the fact that the hours of operation of administrative offices are not always within the reasonable control of the cable operator. For example, some of

Continental's administrative offices are located in buildings or shopping malls for which the hours and days of operation are set by the mall or building manager rather than the cable operator.¹⁶ Through no fault of its own, the cable operator may be unable to comply with the regular business hours requirement in those circumstances.

Customer safety issues are also a concern and must be considered before requiring operators to keep offices open in certain areas. For example, some cable offices are located in business districts in urban areas, and others in industrial parks. By definition, most, if not all, other business in these areas would be closed during our extended office hours. Because many of the customers who make personal visits to our offices do so for the purpose of making cash payments, it would not be prudent to attract customers to our offices in such settings after hours when most other business in the area are closed.

Requiring that an office be open for extended hours can add significantly to costs (and ultimately cable rates). Therefore, an operation should not be required to offer

¹⁶ Also, as a service to our customers, we have established satellite bill payment centers in many community businesses including pharmacies and convenience stores. For example, in Tiffin, Ohio, the local San Mar Pharmacy serves as our payment center.

extended office hours unless there is a demonstrated need justifying the cost of those services.¹⁷

There also may be other alternatives to extended office hours that may better meet customers' needs. For example, our Springfield, Massachusetts system opened a drive-thru window that has proven quite popular with customers. As many as 38% of that system's payments and other customer transactions are handled by the drive-thru -- a success that could hardly have been anticipated. These examples demonstrate that quality customer service must be founded on flexibility. There is simply no way to know in advance what services customers really want.

7. Installations, Outages and Service Calls

NCTA Standard

Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are up to 125 feet from the existing distribution system.

¹⁷ For example, Sunday staffing of administrative phone lines at our Wilmington, Massachusetts system was discontinued because customer usage of administrative services was too low to justify the cost, and actual customer needs (repair and pay-per-view) were already being met. Virtually all Sunday calls were either for repair, which are handled by a separate 24-hour repair line, or pay-per-view, which are handled by an automatic response unit. Because the actual types of calls received were already being handled by other lines and because labor costs on Sunday were double those of weekdays, system management discontinued offering Sunday administrative telephone service. The system continues to provide administrative phone services the other six days of the week.

Proposed Alternative Language

Under normal conditions, the operator will offer to perform 95% of requested standard installations within seven business days after an order has been placed, unless circumstances beyond the reasonable control of the operator prevent or delay the installation. The seven business day installation period may be postponed by the operator if the customer's account is in arrears or if the customer cannot provide an equipment security deposit that may be required. "Standard" installations are defined as those that are above ground and are less than 125 feet from the existing feeder distribution system located along public ways.

Explanation

To serve as the basis for a mandatory standard, the term "standard" installations needs to be more clearly defined. The term is not intended to apply to underground installations that require specialized construction techniques and trenching equipment and may also require municipal permits. In the case of multiple dwelling units or other residences not owned by the occupant, installations are complicated by the fact that access to the premises must be obtained from the owner. To alleviate this problem, Continental proposes that standard installations be defined to include above-ground installations less than 125 feet

from the existing feeder distribution system located along public ways.¹⁸

NCTA's voluntary standard should also be modified to exclude those installation delays that are outside the reasonable control of the operator. For example, an operator cannot control inclement weather that may delay the installation. Similarly, an operator cannot perform work until necessary municipal permits or permissions that may be required (e.g., for access to the premises) can be obtained. Also, the failure of other providers to perform essential services (e.g., electric company or telephone company) could prevent the operator from installing cable within the seven day window.

The cable operator also should not be required to install the system unless the operator has received the requisite equipment security deposit or until the customer makes arrangements to pay a past due bill. Obviously, a seven day installation should also not be required if the customer has requested a specific date that is outside the seven day installation window for cable installation.

18 The reference in the NCTA standards to the "distribution system" should be modified to "feeder distribution system" because it is the feeder system that supplies the signal to customers.

8. Outages and Interruptions

NCTA Standard

Excluding those situations beyond the control of the cable operator, the cable operator will respond to service interruptions promptly and in no event later than 24 hours. Other service problems will be responded to within 36 hours during the normal work week.

Proposed Standard

Excluding those situations beyond the reasonable control of the cable operator, under normal conditions the operator will offer to respond promptly to an all channel outage affecting all sets and in no event later than 24 hours to at least 95% of such occurrences as measured annually. Excluding those situations beyond the reasonable control of the cable operator, under normal conditions the operator will respond to other service related problems within two business days.

Explanation

An outage that affects all channels is much more of a problem and inconvenience to customers than an outage that affects only one channel. Likewise, many customers have more than one television set, and a technical problem affecting only one set in the home is not as severe as a problem affecting all sets in the home.¹⁹ Operators should

¹⁹ In practice, a technical problem that affects all sets is likely caused by a problem with the cable system, requiring a quick response. A technical problem that is evident on only one set in the home is likely due to a
(Footnote 19 Continued)

be required to respond more rapidly to an "all channel" outage affecting "all sets" than to a single channel outage or a problem affecting only one set.

The NCTA standards also fail to differentiate between true service calls and so-called "customer education" service calls. A very large proportion of the repair calls we perform are not due to a problem with the cable system, but are caused by a problem with the customer's television set or video accessories such as VCRs and videogames. At Continental, from 25% to 40% of all service calls are for "customer education," despite the fact that our customer service representatives are trained to help customers identify and fix many of these problems over the phone²⁰ and despite efforts to reduce the frequency of these customer education service calls through training and innovative customer service programs.²¹ Due to the high

(Footnote 19 Continued)

problem with the television set itself and not the cable system.

20 For example, of the 20,572 "customer education" service calls responded to our Pompano, Florida, system from Oct. 1991 through Oct. 1992, 6,446 were for trouble with the customer's TV set, 3,778 were because the TV was not on the proper channel and 2,094 were because the TV needed fine tuning. These figures are typical of those at other Continental systems.

21 Our St. Paul, Minnesota, system, for example, developed a customer service feature called "Video House Calls." A customer who has a problem hooking up a VCR or videogame can call our customer service number, tune to a special channel, and see the customer service representative or service
(Footnote 21 Continued)

number of customer education service calls and the fact that the problems are not caused by the cable system, cable operations should not be required to respond to these calls as rapidly as true service outages.

9. Appointment Window

NCTA Standard

The appointment window alternatives for installations, service calls, and other installation activities will be (a) morning, (b) afternoon, or (c) all day during normal business hours. Additionally, based on community needs, cable systems will schedule supplemental hours during which appointments can be set.

Proposed Alternative Language

Under normal conditions, the appointment window alternatives for installations, service calls, and other installation activities will be (a) morning, (b) afternoon, or (c) all day during regular business hours. Additionally, based on demonstrated community needs, cable systems will schedule supplemental hours during which appointments can be set. If due to previous scheduling some appointment windows are not available, the operator will offer the next available appointment windows to customers on a first come, first serve basis.

(Footnote 21 Continued)

technician on their home TV set. The technicians have sample VCRs and videogames and can show the customer how to hook up the devices. While it is still being tested, "Video House Calls" may well prove to become an industry model for future customer service enhancements.

Explanation

While Continental supports giving customers the choice of selecting either a morning or afternoon appointment window, such a standard must have some flexibility before it can become mandatory. Only half of the day's service calls can be performed within each window. Thus, if more than half of an operator's customers request a specific window, that window will no longer be available that day. Consequently, the operator should be required to offer the customer his/her preferred option on a first come, first serve basis, consistent with customer demand.

10. Missed Appointments

NCTA Standard

If, at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time that is convenient for the customer.

Proposed Alternative Language

If a scheduled installation or repair appointment cannot be kept, an attempt to contact the customer will be made and the appointment rescheduled, if necessary, at the next available appointment window that is convenient for the customer.

To achieve efficient scheduling, the operator may call the customer up to 15 minutes prior to the time of the appointment. If 15 minutes prior to the time of the appointment the customer is not present at the location where service is to be

performed, the company may cancel the appointment and within 24 hours attempt to contact the customer to reschedule the appointment. Customers shall be informed of the company's policy at the time the appointment is originally scheduled.

Explanation

At Continental, as many as 10% of all scheduled service calls cannot be performed because the customer is not home or no adult is present when the technician arrives. For operating efficiency and energy conservation reasons, many of our systems call customers immediately prior to the scheduled service call to ensure that the customer is in fact home and that an adult is present. If the customer is not home or if an adult is not present, the service call is cancelled. Flexibility to follow such procedures should be incorporated into mandatory standards.²²

11. Communications, Bills and Refunds

NCTA Standard

The cable company will provide written information in each of the following areas at the time of installation and any future time upon request:

²² It is important, moreover, that the rescheduling standard apply only if the customer in fact wishes to reschedule. As many as 12% of our completed service calls result in "no problem upon arrival." Many customers use the information obtained from customer service representatives to diagnose and fix problems with their television set or other video equipment before the technician arrives.

- Products and services offered
- Prices and service options
- Installation and service policies
- How to use the cable service

Bills will be clear, concise and understandable.

Refund checks will be issued promptly, but no later than the earlier of 45 days or the customer's next billing cycle following the resolution of the request and the return of the equipment supplied by the cable company if service is terminated.

Customers will be notified a minimum of 30 days in advance of any rate or channel change, provided the change is within the control of the cable operator.

Proposed Alternative Language

The cable company will provide written information in each of the following areas at the time of installation and any future time upon request:

- products and services offered
- prices and service options
- installation and service policies
- how to use the cable service

Bills will be clear, concise and understandable.

Refund checks will be issued promptly, but no later than the earlier of 45 days or the customer's next billing cycle following the resolution of the request and the return of the equipment supplied by the cable company if service is terminated.

flexibility, the proposed language offers a choice of the mail or an announcement on the cable system.

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We have offered these proposed modifications to add specificity where needed and flexibility in implementation, in order to increase the likelihood that these content standards will foster improved customer service quality. We believe these minimal changes are critical if the FCC uses NCTA's voluntary standards as the basis for mandatory standards.

III. CUSTOMER SERVICE STANDARDS ENFORCEMENT PROCESS

In the NPRM, the Commission seeks comment on the customer service standards enforcement process. Specifically, the Commission queries whether the federal standards are self-executing or whether the local franchising authority must take some affirmative action to adopt the standards.²⁴ In Continental's view, the local franchising authority must affirmatively adopt the FCC's customer service standards (and notify the operator) before it may enforce those standards. Stricter standards may be imposed only upon the consent of the cable operator or as part of a consumer protection law of general applicability.

²⁴ NPRM at ¶ 4.